

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/9/2021
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHRISTIAN SANCHEZ, on behalf of himself and :	:	
all others similarly situated,	:	
	:	
Plaintiff,	:	20-CV-10185 (VEC)
	:	
-against-	:	
	:	<u>ORDER</u>
MCKEE FOODS CORPORATION,	:	
	:	
Defendant.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on December 3, 2020, Plaintiff filed the Complaint in this case, Dkt. 1;

WHEREAS on April 5, 2021, Plaintiff's counsel represented that he had, as of that date, "just been in contact" with counsel for Defendant and asked for additional time for the Defendant to move or answer, Dkt. 6;

WHEREAS on April 7, 2021, this Court ordered Plaintiff to show cause why this case should not be dismissed for failure to serve, Dkt. 7;

WHEREAS on April 7, 2021, Plaintiff's counsel filed a letter purporting to explain Plaintiff's failure to serve Defendant and again requesting that the Court allow Defendant until May 10, 2021, to respond to the Complaint, Dkt. 8; and

WHEREAS Plaintiff's April 5, 2021, letter failed to mention that the Defendant had not been timely served and misrepresented the chronology of his contact with Defendant (i.e., Defendant had contacted him over a month earlier);

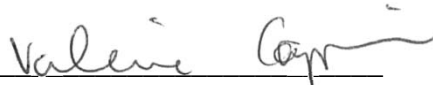
IT IS HEREBY ORDERED THAT the Court will permit Plaintiff to continue prosecuting this case despite his failure to timely serve Defendant. The Court notes, however, that Plaintiff's counsel has failed entirely to demonstrate good cause for the failure to serve. A

matter “slipping through the cracks” does not represent good cause. Similar issues in this case or others that Plaintiff’s counsel has before this Court will result in dismissal. Plaintiff’s counsel is also warned that the Court views his April 5, 2021, letter to constitute a lack of candor with the Court; further failures of candor will likely result in sanctions.

IT IS FURTHER ORDERED THAT Defendant’s time to respond to the Complaint is extended to **May 10, 2021**. The Initial Pretrial Conference is scheduled for **May 14, 2021, at 10:00 a.m.** The parties’ joint letter and proposed Case Management Plan are due not later than **May 6, 2021**. The parties’ joint letter must include an indication as to whether they believe a Rule 16 conference would be beneficial or if they would prefer that the Court cancel the conference and instead so-order the parties’ proposed Case Management Plan. No further extensions shall be granted.

**SO ORDERED.**

**Date: April 9, 2021**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**